

CHARLOTTE PLANNING COMMISSION

**FINDINGS OF FACT AND DECISION
IN RE APPLICATION OF**

**Lance and James Mansfield, Lisa Gere, Lynn Mansfield,
Randi McCuin, and Marjorie Mansfield**

**Final Plan Hearing
For A
Two-Lot Subdivision and
Application # PC-09-19**

Background

Sketch Plan Review (PC-08-04) was held on June 18, 2009, and a site visit was held on the same day. The project was classified as a Minor Subdivision.

Application

Materials submitted with the application are listed in Appendix A.

Public Hearing

A public hearing for this application was held on September 3, 2009. Lynn Mansfield and William Nedde (of Krebs and Lansing Consulting Engineers) represented the applicant at the hearing. No other parties participated in the hearing.

Regulations in Effect

Town Plan amended March, 2008
Land Use Regulations amended March, 2009.
Recommended Standards for Developments and Homes adopted September, 1997

Findings

1. The applicant's property is a 50 acre parcel located within the Rural District.
2. A single family dwelling is currently located on the parcel. In addition to the dwelling a well house, primary septic area and replacement septic area are located on the parcel. The applicant stated at the hearing and the Planning Commission agrees that these structures and facilities occupy approximately 2.5 acres, or half of proposed Parcel 2.
3. The following areas of high public value (as listed in Table 7.1 of the Charlotte Land Use Regulation) are located on or in close proximity to the parcel:
 - A. Agricultural soils: the eastern portion of the parcel has a large area with prime agricultural soils, and there are statewide agricultural soils on much of the rest of the parcel.
 - B. Agricultural use: with the exception of the area around the dwelling, the eastern portion of the parcel is in active agricultural use.
 - C. Steep slopes: there is small area with steep slopes right at the western end of the

- parcel.
- D. Wetland: There is a very small wetland associated with an old farm pond; there is also a wetland on the adjacent parcel to the west which is likely a Class II wetland and therefore has a 50 foot setback in accordance with the Vermont Wetland Rules, which would overlay the Mansfield parcel.
 - E. Wildlife habitat: Map 6 of the Town Plan indicates that the southwest portion of the parcel has associated support habitat.
 - F. Scenic road: Lime Kiln Road is labeled a “most scenic road” on Map 13 of the Town Plan.
 - G. Conserved land: The adjacent parcel to the west and south is conserved by the Vermont Land Trust.
4. The Planning Commission finds that the agricultural and wildlife resources are particularly important natural features (areas of high public value) associated with the parcel.
 5. The agricultural resources are located on both Parcel 1 and Parcel 2. The wildlife resources are located entirely on Parcel 1.
 6. The proposed subdivision will impact approximately 2.5 acres of land that is currently used for agriculture, most of which also has prime agricultural soils. The impact on this agricultural area is due to the fact that this area will be included in Parcel 2 and separated from the rest of the agricultural area. Therefore, there is a greater potential that this area will become unavailable for agricultural use in the future.
 7. The applicant has proposed no development on Parcel 1 at this time. The applicant stated in a memo dated July 31, 2009 that prior to development on Parcel 1, an applicant should be required to obtain Planning Commission review of a road cut, building envelope, open space designation (if required), final septic calculation and design, and final water supply design.
 8. In considering whether the impact of the subdivision on the agricultural use and resources of the parcel is unduly adverse (as defined in Chapter X of the Charlotte Land Use Regulations), the Planning Commission notes that the size of the impacted area is fairly small (2.5 acres) and as such should not be considered a violation of a clear, written community standard. Neither would it be likely to offend the sensibilities of the average person. Although the applicant could have entirely mitigated the impact by reducing the size of Parcel 2 by using the Planned Residential Development provisions of Chapter VIII in the Land Use Regulations, the proposed five acre lot size is the minimum allowed by the Land Use Regulations for a standard subdivision, and so the Planning Commission finds this a “reasonable mitigating step to improve the harmony between the proposed development and its surrounding.” Therefore, the Planning Commission finds that the impact on the agricultural use and resources of the parcel is not unduly adverse.
 9. As required by Section 7.7(B) of the Charlotte Land Use Regulations, the application includes a memo from the applicant’s engineer indicating that he inspected the existing septic tank, pump station and mound disposal area and found them all to be in very good condition.
 10. The applicant is seeking a waiver for providing a septic system design for Parcel 1 under the provisions of Section 7.7(C) of the Charlotte Land Use Regulations.
 11. The applicant has submitted soil test pit information, and applicant’s engineer indicated that the soils on Parcel 1 can support a wastewater disposal system serving a single

family three bedroom home. The Town's wastewater disposal consultant concurred in a memo dated July 13, 2009 that the soils on Parcel 1 are sufficient for a mound.

12. The application qualifies for a waiver under Section 7.7(C) for providing a final septic system design for Parcel 1, however, it is not clear whether the State will require a Wastewater Disposal and Potable Water Supply Permit.
13. The applicant has not provided a survey plat with the application.

Decision

Based on these Findings, the Planning Commission approves the Final Plan Application for the proposed two-lot subdivision with the following conditions:

1. A survey plat stamped and signed by a licensed surveyor shall be submitted within 150 days to the Town Planner for administrative review and approval. The plat will include a notice that Parcel 1 has not been approved for sewage disposal.
2. Two paper copies (one full size and one 11"x 17") and a mylar (18" x 24") of the approved plat will be submitted to the Planning Commission for review and signature within 160 days. The applicant will record the signed mylar in the Charlotte Land Records within 180 days.
3. Prior to the submission of the mylar in accordance with Condition 3 above, the applicant will do the following:
 - A. Obtain a Wastewater Disposal and Potable Water Supply Permit for the proposed subdivision, or submit a letter from an official with appropriately delegated authority indicating that no permit is needed.
 - B. Submit a letter from the surveyor indicating he has set the survey markers in the field as indicated on the plat. If the survey pins cannot be set at this time because of frozen ground, the applicant shall submit a letter from the surveyor indicating that he will set the pins when the ground thaws and has been paid to do so.
4. Prior to any development of Parcel 1, a Subdivision Amendment will be required for which, at a minimum, access, a building envelope, and wastewater disposal will be reviewed.
5. The Planning Commission will not require open space to be designated at this time, however, the designation of open space will be required at the time of any future subdivision of Parcel 1. The total current acreage (50 acres) will be considered when calculating the percentage of open space as provided for in the Charlotte Land Use Regulations in effect at that time.
6. A notice that Parcel 1 has not been approved for sewage disposal shall be included in any deed conveying that parcel.

Additional Conditions: All plats, plans, drawings, documents, testimony, evidence and conditions listed above or submitted at the hearing and used as the basis for the Decision to grant permit shall be binding on the applicant, and his/her/its successors, heirs and assigns. Projects shall be completed in accordance with such approved plans and conditions. Any deviation from the approved plans shall constitute a violation of permit and be subject to enforcement action by the Town.

This decision may be appealed to the Vermont Environmental Court by the applicant or an

interested person who participated in the proceeding. Such appeal must be taken within 30 days of the date of the 4th signature below, pursuant to 24 V.S.A. Section 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

Members Present at the Public Hearing on September 3, 2009: John Owen, Peter Joslin, Linda Radimer, Paul Landler

Vote of Members after Deliberations:

The following is the vote for or against the application, with conditions as stated in this Decision:

- 1. Signed: _____ For / Against Date Signed: _____
- 2. Signed: _____ For / Against Date Signed: _____
- 3. Signed: _____ For / Against Date Signed: _____
- 4. Signed: _____ For / Against Date Signed: _____
- 5. Signed: _____ For / Against Date Signed: _____
- 6. Signed: _____ For / Against Date Signed: _____
- 7. Signed: _____ For / Against Date Signed: _____

APPENDIX A

The following items were submitted with the application:

- 1. An application form and appropriate fee.
- 2. A memo dated July 31, 2009 from Lynn Mansfield to Dean Bloch and Planning Commission members regarding "Mansfield Property (PC-09-08), 768 Mount Philo Road"
- 3. Attachments with signatures of all property owners authorizing the application.
- 4. A letter dated July 31, 2009 from William H. Nedde, III of Krebs & Lansing Consulting Engineers, Inc. to Lynn Mansfield regarding "Mansfield Property—Mt. Philo Road."
- 5. Three pages with information for 16 test holes, entitled "Lynn Mansfield Property, Mount Philo Road, Charlotte Vermont, Project #09117" dated July 13, 2009.
- 6. A plan by Krebs & Lansing Consulting Engineers entitled "Overall Plan, Mansfield Property, Mount Philo Road, Charlotte, Vermont" dated 7/31/09, no revisions.
- 7. A plan by Krebs & Lansing Consulting Engineers entitled "Subdivision Plan, Mansfield Property, Mount Philo Road, Charlotte, Vermont" dated 7/31/09, no revisions.
- 8. A plan by Krebs & Lansing Consulting Engineers entitled "Site Plan, Mansfield Property, Mount Philo Road, Charlotte, Vermont" dated 7/31/09, no revisions.